

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF GEORGIA  
SAVANNAH DIVISION**

RUSSELL CARTER,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	C/A No.: 4:16-cv-084-WTM-GRS
	)	
JOHN WILCHER, in his official capacity	)	
as Sheriff of Chatham County, Georgia,	)	
et al.	)	JURY TRIAL DEMANDED
	)	
Defendants.	)	

**NOTICE OF OBJECTION TO PROPOSED ORDER**

COMES NOW, Russell Carter, by and through his undersigned counsel, and files this Notice of Objection to Proposed Order Granting Defendant Joseph Moyse, MD's Special Appearance Motion to Dismiss Plaintiff's Complaint, respectfully showing the Court the following:

On August 19, 2016, Defendant Moyse moved to dismiss Plaintiff's Complaint by special appearance. Doc. 33. On September 14, 2016, counsel for Defendant Moyse submitted a proposed order on the motion, apparently "[p]er the Court's instructions." See Ex. A, Email from April A. Smith with attachments. As proposed, the order is set to be signed by Magistrate Judge G.R. Smith. Also, within the proposed order, Defendant Moyse notes "Plaintiff's failure to respond to same."

Plaintiff objects to entry of the order as drafted for two reasons. First, pursuant to 28 U.S.C. § 636, Local Rules 72.2 and 72.3(a)(3), the Magistrate Judge

lacks authority to hear and determine the motion.<sup>1</sup> Second, Plaintiff intends to file a motion for leave to file a response to out of time on the basis of excusable neglect no later than September 15, 2016.

This 14th day of September, 2016.

THE CLAIBORNE FIRM, P.C.

/s/ Cameron C. Kuhlman  
CAMERON C. KUHLMAN  
Georgia Bar Number: 596159  
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<sup>1</sup> Under LR 72.2 and in accordance with 28 U.S.C. § 636(b)(1)(A), “a Magistrate Judge may hear and determine any [nondispositive] pretrial matter, other than those motions specified in Local Rule 72.3(a)(3).” LR 72.3(a)(3) specifically lists “motions to dismiss for failure to state a claim upon which relief may be granted, [and] to involuntarily dismiss an action.” Plaintiff further notes that, upon careful review of the docket, the motion has not been referred to the Magistrate Judge.

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**CERTIFICATE OF SERVICE**

This is to certify that I have on this day served counsel of record in this case with the foregoing Notice of Objection to Proposed Order in accordance with the directives from the Court's Notice of Electronic Filing ("NEF"), which was generated as a result of electronic filing.

This 14th day of September, 2016.

THE CLAIBORNE FIRM, P.C.

/s/ Cameron C. Kuhlman  
CAMERON C. KUHLMAN  
Georgia Bar Number: 596159  
*Attorney for Plaintiff*